

REMARKS

Claims 1-14 are pending in this application. By this Amendment, claim 15 is canceled without prejudice to, or disclaimer of, the subject matter recited in that claim. The specification is amended. Fig. 1 is amended with the inclusion of the attached replacement drawing sheet. The amendments introduce no new matter. Claims 11-14 are provisionally withdrawn from consideration as drawn to a non-elected invention. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 1, makes final the Restriction Requirement. The Office Action indicates that the Applicants timely traversed the Restriction Requirement, that traversal being on the grounds that the Applicants believe that the search and examination can be made without serious burden to the Examiner. The Office Action indicates that this argument is not found persuasive because "only the Examiner can be the judge of what entails a serious burden." This represents an inaccurate approach regarding what the guidance is provided in MPEP §806 states. In this case, and specifically as was indicated in the Restriction Requirement, Applicants believe that an assertion of a serious burden is unsupportable and therefore, cannot be maintained.

In support of the above conclusion, Applicants provide the following. The Restriction Requirement indicated that inventions I and II were considered to be related as a process of making a product and a product made. The Restriction Requirement indicated that the inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different products, or (2) that the product as claimed can be made by another and materially different process. The conclusion of the Restriction Requirement was that the apparatus could be made without the alignment being done and the stresses in the apparatus are created by random occurrence. This is simply not

supportable on the record, particularly given the features recited in the claims, nor would one of ordinary skill in the art recognize that such a conclusion is supportable.

Claim 1 recites, among other features, during operation a hoop stress field having regions of high and low stress concentration around said hole; wherein said chute is attached to the combustor wall in a region of low stress concentration. Claim 11 recites, a method comprising the step of aligning the areas where the chute is attached to the combustor with the operational hoop stress field in the combustor wall. As such, it is not reasonable to conclude that the apparatus could be made without the alignment being done or that the stresses in the apparatus are created by random occurrence.

For at least this reason, and in keeping with the guidance provided in at least MPEP §806, withdrawal of the Restriction Requirement, and examination of all of the pending claims on the merits, are respectfully requested.

The Office Action, in paragraph 2, objects to the drawings because the arrow A in Fig. 1 is not shown. Fig. 1 is amended with the inclusion of the attached replacement drawing sheet. Withdrawal of the objection to the drawings is respectfully requested.

The Office Action, in paragraph 3, objects to the specification because of informalities. The specification is amended to obviate the objection. Withdrawal of the objection to the specification is respectfully requested.

The Office Action, in paragraph 5, rejects claim 15 under 35 U.S.C. §112, second paragraph, as being indefinite. The cancellation of claim 15 renders this rejection moot.

The Office Action, in paragraph 7, rejects claims 1-6, and 15 under 35 U.S.C. §102(b) as being anticipated by what is alleged to be Applicants' admitted prior art. Specifically, the Office Action attempts to assert that Applicants' disclosure can reasonably be considered to teach at least a feature wherein said chute is attached to the combustor wall in a region of low stress concentration. With reference to Fig. 2, the Office Action asserts that the term "in a

region" allows some latitude as to whether the chute is attached to the combustor wall "at the low stress concentration or not." The Office Action asserts that two welds 28 shown in Fig. 2 can reasonably be considered to correspond to a feature said chute is attached to the combustor wall in a region of low stress concentration. This conclusion is simply not supportable on the record. To take the Examiner's conclusion, as put forward in the Office Action, and to broadly construe the term in a region as not being specifically related to the qualifier and/or modifier which accompanies it, *i.e.*, "of low stress concentration" in this case, attempts to read the claim in a manner which would vitiate a positively recited claim term. Reading a claim in such a manner is *per se* improper. There is no reasonable manner in which attachment of an object at a region of low stress concentration can reasonably be considered to be taught, or to have been suggested, by attaching such object at a region of higher stress concentration as is implied by the Office Action.

One of ordinary skill in the art would understand "a region of low stress concentration" as recited, for example, in claim 1, to mean at a location where the stress is at its lowest over the span of the weld because the stress concentration over the span of the weld may vary slightly. For at least this reason, one skilled in the art reading claim 1 would appreciate that the prior art, Fig. 2, differs significantly from the subject matter recited in the pending claims. Further, amending the claim language in a manner that would respond to the improper nature of the rejection would render the subject matter of the claims at best indefinite allowing an assertion that the entire span of the weld is not, for example, at a point of lowest stress concentration, or at worst unenforceable based on any potential infringer modifying, in the slightest, a precise location of the point at which said chute is attached to the combustor wall and asserting that such slight modification is outside the scope of the claims.

For at least the above reasons, what is alleged by the Office Action to be Applicants' admitted prior art neither teaches, nor can it reasonably be considered to have suggested, the specific combination of all of the features recited in independent claim 1. Further, claims 2-6 are also neither taught, nor would they have been suggested, by what is alleged to be Applicants' admitted prior art, for at least the respective dependence of these claims directly or indirectly on independent claim 1, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-6 under 35 U.S.C. §102(b) as being anticipated by what is alleged to be Applicants' admitted prior art are respectfully requested.

The Office Action, in paragraph 8, rejects claims 1-6 and 15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,524,430 to Mazeaud et al. (hereinafter "Mazeaud"). This rejection is respectfully traversed.

Mazeaud teaches a combustion chamber for a gas-turbine engine in which the wall defining the combustion chamber may be easily attached to and removed from the engine structure (Abstract). The Office Action indicates that an unlabeled element between elements 21 and 27 in, for example, Fig. 1 of the depicted structure can reasonably be considered to correspond to a feature at least one air intake chute aligned with said hole and comprising all of the other features specifically recited in independent claim 1. This conclusion is not supportable based on any disclosure of Mazeaud for at least the following reason. Mazeaud makes no reference to stress concentration as a consideration when deciding where to locate any attachment point of any alleged chute. Further, with respect to, for example, claim 3, and contrary to the assertions made in the Office Action, Mazeaud does not disclose a chute attached to the wall of the combustor in the same radial plane. To any extent that the dashed lines that the Office Action refers to can be considered to even be

germane, these dashed lines may be located in a same axial plane but they cannot reasonably be considered to teach a feature in which chutes are attached to the wall and combustor in the same radial plane.

In reviewing the anticipation standard, the Federal Circuit stated "[t]o anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375 (Fed. Cir. 2001), *cert. denied*, 122 S. Ct. 1436 (2002) (emphasis added). Additionally, other court precedent clarifies the requirements for anticipation based on arguably distinct teachings in a single prior art reference, stating that "the reference . . . must clearly and unequivocally disclose the claimed compound or direct those skilled in the art to the compound without any need for picking, choosing, and combining various disclosures not directly related to each other by the teachings of the cited reference." *In re Arkley*, 455 F.2d 586, 587, 172 USPQ 524 (CCPA 1972); *see also Sandisk Corp. v. Lexar Media, Inc.*, 91 F. Supp. 2d 1327, 1336 (N.D. Calif. 2000) (stating that "[u]nless all the elements are found in a single piece of prior art in exactly the same situation and united the same way to perform the identical function, there is no anticipation.") and *Aero Industries Inc. v. John Donovan Enterprises-Florida Inc.*, 53 USPQ2d 1547, 1555 (S.D. Ind. 1999) (stating that "[n]ot only must a prior patent or publication contain all of the claimed elements of the patent claim being challenged, but they 'must be arranged as in the patented device' ").

This standard for anticipation is also set forth in MPEP §2131, which states that "the identical invention must be shown in as much detail as is contained in the . . . claim." Further, although the same terminology need not be used, "the elements must be arranged as required by the claim." These standards are simply not met here. There is not enough detail in the disclosure of Mazeaud to reasonably conclude that the unlabeled element referred to by

the Office Action clearly and unequivocally corresponds to the features recited in the claims "in exactly the same situation and united the same way to perform the identical function."

For at least these reasons, Mazeaud cannot reasonably be considered to teach, or even to have suggested, the combination of all of the features recited in independent claim 1. Further, claims 2-6 are also neither taught, nor would they have been suggested, by Mazeaud for at least the respective dependence of these claims directly or indirectly on independent claim 1 as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-6 under 35 U.S.C. §102(b) as being anticipated by Mazeaud are respectfully requested.

The Office Action, in paragraph 9, rejects claim 1-6 and 15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,899,882 to Parker. This rejection is respectfully traversed.

Parker teaches a step-liner combustion chamber for a gas turbine having a combustor basket cooling arrangement as part of the combustion air orifice structure (Abstract). The Office Action, with reference to, for example, Fig. 3, indicates that elements 69 are alleged to correspond to the chute recited in the claims. In like manner to the argument made above over Mazeaud, Parker does not teach stress concentration as being in consideration when deciding where to locate the attachment points of the chutes. The plurality of spot welds around the circumference of the chute in Fig. 3 also clearly indicates this is not a consideration as at least some of the spot welds can reasonably be considered to be located in areas of higher stress concentration. Again here, with specific respect to the dependent features enumerated in claim 3, the areas where the chutes of Parker are attached to the combustor wall are not all in the same radial plane.

For at least these reasons, and in consideration of all of the same arguments over Mazeaud above, Parker cannot reasonably be considered to teach, or to have suggested, the subject matter recited in independent claim 1. Further, claims 2-6 are also neither taught, nor would they have been suggested, by Parker for at least the respective dependence of these claims directly or indirectly on independent claim 1 as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-6 under 35 U.S.C. §102(b) as being anticipated by Parker are respectfully requested.

The Office Action, in paragraph 11, rejects claim 1-6 and 15 under 35 U.S.C. §103(a) as being unpatentable over what is again alleged to be Applicants' admitted prior art, or failing that any of the above applied prior art references in view of what is alleged to be Applicants' admitted prior art and further in view of U.S. Patent No. 4,343,355 to Goloff et al. (hereinafter "Goloff"). These rejections are respectfully traversed.

Applicants read the above underlined language as supporting a conclusion that although the Office Action asserts the various rejections under 35 U.S.C. §102 above, it is reasonable to conclude that these rejections are considered insufficient on their faces. Any assertion in paragraph 11 regarding what any of what is alleged to be Applicants' Admitted prior art or any of the other prior art references to Mazeaud or Parker are alleged to teach, or reasonably to have suggested, are reviewed above. Goloff, simply teaching that welds should not be placed in regions of high stress does not add any weight to any alleged obviousness of claims 1-6. The Office Action attempts to assert that Goloff is alleged to teach that it is old and well known to those in the welding art to place welds in regions of low stress concentration so that minimum stress occurs at the weld. The analysis of the Office Action fails for at least the following reasons.

First, Goloff is directed to welding of a heat exchanger rather than a combustion chamber wall. One of ordinary skill in the art would recognize the significantly distinct considerations regarding what Goloff is alleged to teach over the disclosures of the other applied prior art references. As such, Goloff would not be considered to even be combinable with the various inventions of, for example, what is alleged to be Applicants' Admitted prior art, Mazeaud or Parker.

Additionally, Goloff teaches that welds are placed in areas of low stress so that operational pressure differentials or stresses result in rolling of the metal members relative to the relatively rigid forms about which they are wrapped, are minimized and minimum stress occurs at the weld. Goloff also teaches, however, that it is sometimes impossible to effectively place welds in low stress areas (col. 1, lines 39-41). Goloff does not specifically address relocation of the welds but rather suggests other methods by which the structural difficulties of the prior art may be reduced. The solution of Goloff is neither applicable, nor appropriate, to address objectives that are addressed by the subject matter of the pending claims. Again here, Goloff does not teach any methodology requiring a consideration of stress concentration patterns around air intake holes and air intake chutes. As such, Goloff cannot reasonably be considered to overcome any shortfall in the application of any of the other applied prior art references to the subject matter of independent claim 1 as enumerated above. Further, claims 2-6 are also neither taught, nor would they have been suggested, by any permissible combination of Goloff with the other applied references for at least the respective dependence of these claims directly or indirectly on independent claim 1, as well as for the separately patentable subject matter that each of these claims recites.

The Office Action, in paragraph 12, rejects claims 7-10 under 35 U.S.C. §103(a) as being unpatentable over any of the above applied prior art references and further in view of

U.S. Patents Nos. 3,866,735 to Irwin, 4,700,544 to Fucci and/or 6,681,577 to Bolender et al. (hereinafter "Bolender"). These rejections are respectfully traversed.

No combination of Irwin, Fucci or Bolender can overcome any shortfall in the application of the above-enumerated prior art references to the subject matter of independent claim 1. Further, none of Irwin, Fucci or Bolender teach "tabs" that can reasonably be considered to functionally and/or structurally correspond to the tabs of claim 7.

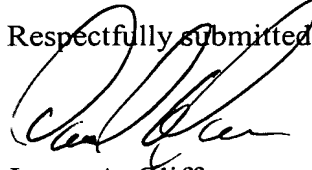
For at least these reasons, any permissible combination of the applied prior art references cannot reasonably be considered to teach, or to have suggested, the subject matter of claim 7 because of (1) the dependence of this claim on independent claim 1; and (2) the structurally and functionally different positively recited tabs that are the subject matter of claim 7. Further, claims 8-10 are neither taught, nor would they have been suggested, by any combination of the applied prior art references for at least the respective dependence of these claims directly on claim 7 and indirectly on claim 1, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 7-10 under 35 U.S.C. §103(a) as being unpatentable over any combination of the applied prior art references is respectfully requested.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-14 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,



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Attachment:
Replacement Drawing Sheet (Figs. 1 and 2)

JAO:DAT/cfr

Date: February 8, 2006

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<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
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Amendments to the Drawings:

The attached replacement drawing sheet makes changes to Fig. 1 and replaces the original sheet with Figs. 1 and 2.

Attachment: Replacement Sheet